THE HON'BLE SRI JUSTICE A.GOPAL REDDY

–

WRIT PETITION No.24166 of 1995

DATED: 14-03-2006

Between:

Mohd.Sirajuddin . . .Petitioner

And

Warangal Municipal Corporation

and others . . .Respondents

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

–

WRIT PETITION No.24166 of 1995

O R D E R:

The petitioner, who is a owner of the building bearing Municipal Nos.5/786 and 5/786/1 old corresponding to new
No.5-7-22 situated at Lashkar Bazar, Hanamkonda, filed this writ petition complaining that for execution of the master plan, the respondent authorities earmarked the portion of the above building to be demolished and they are likely to proceed with the same without issuing any notice as contemplated under the law. He contends that if the respondent authorities proceed with the execution of the same without following due process of law, he would be deprived of the property.

The Division Bench of this Court in **W.P.No.21198 of 1997,** dated 03-02-1998, categorically held that whenever the land either in the municipal areas or in the municipal corporations is to be acquired in tune with the master plan, the authorities are under obligation either to follow necessary procedure as contemplated under the relevant enactment or to negotiate with the owner of the property for such acquisition and if they failed in the negotiations, necessarily the land has to be acquired under the provisions of the Land Acquisition Act after payment of compensation. Without following the due process of law, neither the Corporations nor the municipalities can take possession of the property under duress.

In view of the above and since there is already an interim direction in favour of the petitioner restraining the respondents from demolishing any portion of the building, the respondents are under obligation to follow the necessary procedure for such

demolition for widening of the road.

Accordingly, the writ petition is allowed and the respondents are directed not to demolish the structure of the building of the petitioner without following the due procedure. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

14th MARCH, 2006.

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